

# Exhibit 10

1 UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
2 EASTERN DIVISION  
3

IN RE: NATIONAL )  
4 PRESCRIPTION ) MDL No. 2804  
OPIATE LITIGATION )  
5 \_\_\_\_\_ ) Case No.  
 ) 1:17-MD-2804  
6 )  
THIS DOCUMENT RELATES ) Hon. Dan A.  
7 TO ALL CASES ) Polster  
8

TUESDAY, JANUARY 15, 2019

9  
HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
10 CONFIDENTIALITY REVIEW

11 - - -

12 Videotaped deposition of Karen  
13 Harper, held at the offices of STINSON  
14 LEONARD STREET LLP, 7700 Forsyth Boulevard,  
15 Suite 1000, St. Louis, Missouri, commencing  
16 at 9:09 a.m., on the above date, before  
17 Carrie A. Campbell, Registered Diplomate  
18 Reporter and Certified Realtime Reporter.

19

20

21

22 - - -

GOLKOW LITIGATION SERVICES  
23 877.370.3377 ph | 917.591.5672 fax  
deps@golkow.com

24

25

1	document ends in Bates 421850.	16:39:03
2	And this is an e-mail chain	16:39:21
3	from the July 21, 2000 time period regarding	16:39:23
4	Mallinckrodt suspicious order monitoring and	16:39:29
5	the Harvard Drug license suspension.	16:39:30
6	Do you see that?	16:39:32
7	A. I'm reading the e-mail,	16:39:33
8	please --	16:39:41
9	Q. Sure.	16:39:41
10	A. -- so that I can understand the	16:39:41
11	whole context.	16:39:41
12	Q. Absolutely.	16:39:41
13	And my questions will relate to	16:40:02
14	just the first page of this e-mail.	16:40:04
15	A. All right. I'm ready. Thank	16:40:06
16	you.	16:40:07
17	Q. Okay. On July 21, 2010,	16:40:07
18	Mr. Ratliff asks you whether or not, quote,	16:40:14
19	"As an aside, are we capable of knowing our	16:40:19
20	customers' customers with any specificity?"	16:40:22
21	end quote.	16:40:27
22	Did I read that correctly?	16:40:28
23	A. Yes.	16:40:28
24	Q. And you respond that same day	16:40:29
25	that -- well, why don't you read the first	16:40:30

1 sentence of that e-mail response. 16:40:35

2 A. "Using chargeback data, it is 16:40:39

3 indeed possible to know our customer's 16:40:41

4 customer with great specificity." 16:40:46

5 Q. Okay. And do you have any 16:40:49

6 reason to doubt that you in fact sent that 16:40:50

7 e-mail to Mr. Ratliff on July 21, 2010? 16:40:51

8 A. No. 16:40:54

9 Q. And so it's accurate to state 16:40:55

10 that as of July 2010, you understood that you 16:40:58

11 could utilize chargeback data to understand 16:41:03

12 with great specificity knowledge of your 16:41:07

13 customer's customer; is that accurate? 16:41:11

14 A. Knowledge of who our customer 16:41:14

15 was shipping to, yes. 16:41:20

16 Q. Okay. So just so the record is 16:41:21

17 clear, yes or no: Is it accurate to state 16:41:25

18 that as of July 2010, you understood that you 16:41:26

19 could utilize chargeback data to understand 16:41:32

20 with great specificity where -- where your 16:41:34

21 pills were going after you shipped to the 16:41:38

22 distributor? 16:41:42

23 MR. O'CONNOR: Object to form. 16:41:42

24 THE WITNESS: Yes. 16:41:43

25

1	QUESTIONS BY MR. KO:	16:41:43
2	Q. You can set that aside.	16:41:46
3	(Mallinckrodt-Harper Exhibit 24	16:41:48
4	marked for identification.)	16:41:49
5	QUESTIONS BY MR. KO:	16:41:49
6	Q. This is a copy of what will be	16:41:59
7	marked as Harper Exhibit 24.	16:42:00
8	And this ends, for the record,	16:42:09
9	ends in Bates 280607.	16:42:09
10	And this appears to be a	16:42:31
11	November 1, 2010 letter that you send to Paul	16:42:32
12	Kleissle, correct?	16:42:38
13	A. Yes.	16:42:39
14	Q. And you'll see later on there's	16:42:40
15	the signature block of you on the second	16:42:43
16	page.	16:42:46
17	A. Yes.	16:42:47
18	Q. And is it accurate to say that	16:42:47
19	you're sending him this correspondence on	16:42:49
20	November 1, 2010, to describe to him what you	16:42:52
21	can utilize based on the chargeback	16:42:56
22	information that you are -- that you have	16:42:59
23	been reviewing in that 2010 time period?	16:43:00
24	A. Yes.	16:43:03
25	Q. Okay. That's all I have on	16:43:04

1	that document.	16:43:14
2	Now, in connection with running	16:43:15
3	chargeback reports, is it also accurate to	16:43:28
4	say that indirect match reports were reports	16:43:33
5	that you asked to be run to understand the	16:43:40
6	downstream details of a transaction?	16:43:44
7	MR. O'CONNOR: Object to form.	16:43:46
8	THE WITNESS: I don't	16:43:47
9	understand the term "indirect match	16:43:49
10	report."	16:43:50
11	QUESTIONS BY MR. KO:	16:43:52
12	Q. Okay. How about -- let's --	16:43:52
13	I'm sorry, let's go back to that document	16:43:55
14	then that we just set aside.	16:43:58
15	A. All right.	16:43:59
16	Q. And in the first sentence of	16:44:00
17	this correspondence to Mr. Kleissle, you	16:44:09
18	ask -- or you indicate, "In an ongoing effort	16:44:12
19	to enhance our existing suspicious order	16:44:15
20	monitoring program and in accordance with 21	16:44:18
21	CFR 1301.74, Mallinckrodt has begun the	16:44:22
22	process of reviewing sales to indirect end	16:44:26
23	user customers, open parens, retail	16:44:30
24	pharmacies, close parens, but geographic	16:44:34
25	region. This analysis is accomplished by a	16:44:36

1 review of chargeback data." 16:44:39

2 Did I read that correctly? 16:44:41

3 A. Yes. 16:44:41

4 Q. Okay. And understanding that 16:44:41

5 you don't recall the use of the word 16:44:45

6 "indirect match report," you at least in this 16:44:47

7 correspondence refer to retail pharmacies as 16:44:53

8 indirect end user customers, correct? 16:44:55

9 A. Yes. 16:44:58

10 Q. Okay. Do you recall a time in 16:45:00

11 which -- and you state to Mr. Kleissle that 16:45:03

12 you can do this and accomplish this by 16:45:07

13 reviewing chargeback data, correct? 16:45:11

14 A. Yes. 16:45:12

15 Q. Okay. And so do you recall a 16:45:12

16 time in which you had asked for reports to be 16:45:15

17 run on indirect end user customers? 16:45:20

18 A. Yes. 16:45:24

19 Q. Okay. And these -- you can set 16:45:25

20 that aside. 16:45:28

21 And in these reports -- you ran 16:45:28

22 certain reports or had asked certain reports 16:45:37

23 to be run in connection with certain 16:45:39

24 customers that you were shipping drugs to, 16:45:44

25 including Harvard, for example, correct? 16:45:49

1	QUESTIONS BY MR. KO:	17:58:58
2	Q. I'm just simply asking whether	17:58:59
3	or not you determined that there were	17:59:00
4	instances, prior to 2000 -- November 2, 2010,	17:59:01
5	in which you discovered that you were	17:59:07
6	shipping suspicious orders based on a	17:59:09
7	peculiar order algorithm that was in place at	17:59:14
8	that time.	17:59:17
9	MR. O'CONNOR: Same objection.	17:59:18
10	THE WITNESS: The algorithm	17:59:18
11	points to orders that need to be	17:59:20
12	investigated further and does not	17:59:23
13	necessarily conclude in and of itself	17:59:26
14	that the order is suspicious.	17:59:28
15	QUESTIONS BY MR. KO:	17:59:30
16	Q. Right.	17:59:31
17	And I -- I see where the	17:59:31
18	confusion is, because I'm putting a label on	17:59:32
19	a particular order, so let me try it this	17:59:34
20	way.	17:59:36
21	A. All right.	17:59:36
22	Q. In the e-mail that you had	17:59:37
23	drafted to Eileen Spaulding that we went over	17:59:42
24	earlier today in which you said that no	17:59:45
25	orders -- no peculiar orders had risen to the	17:59:50



1	level of suspicious, you also -- do you	17:59:53
2	recall also referencing Harvard and Sunrise?	17:59:56
3	MR. O'CONNOR: Object to form.	17:59:58
4	THE WITNESS: Yes. Yes.	17:59:59
5	QUESTIONS BY MR. KO:	17:59:59
6	Q. And you specifically reference	18:00:00
7	Harvard and Sunrise because you are saying	18:00:02
8	that those were instances in which the	18:00:05
9	peculiar order algorithm did not flag orders	18:00:09
10	to them that were potentially suspicious.	18:00:13
11	Is that accurate to say?	18:00:18
12	A. Correct.	18:00:19
13	Q. Okay. And so applied to this	18:00:20
14	memorandum, I am asking you to confirm that	18:00:26
15	prior to November 2, 2010, there were in fact	18:00:29
16	instances in which you shipped potentially	18:00:36
17	suspicious orders because you were utilizing	18:00:38
18	a peculiar order algorithm that relied on the	18:00:41
19	numeric formula.	18:00:45
20	MR. O'CONNOR: Object to form.	18:00:47
21	THE WITNESS: We shipped orders	18:00:48
22	that would have been further	18:00:53
23	investigated if the algorithm was	18:00:56
24	different, but I can't conclude that	18:00:58
25	we shipped suspicious orders because	18:01:00

1	it's my belief that we have never	18:01:01
2	shipped a suspicious order.	18:01:05
3	QUESTIONS BY MR. KO:	18:01:05
4	Q. For what time period?	18:01:06
5	A. Ever.	18:01:07
6	Q. Okay. So your testimony here	18:01:11
7	today is that you believe Mallinckrodt has	18:01:13
8	never shipped a suspicious order?	18:01:15
9	A. Yes.	18:01:16
10	Q. Okay. And that's	18:01:18
11	notwithstanding the settlement that	18:01:19
12	Mallinckrodt had entered into with the DOJ	18:01:22
13	regarding its suspicious order monitoring	18:01:24
14	activities?	18:01:25
15	A. Correct.	18:01:26
16	Q. Okay. And that's	18:01:31
17	notwithstanding the fact that the DOJ has	18:01:31
18	alleged, and Mallinckrodt has in fact	18:01:38
19	admitted in the DOJ agreement, that at	18:01:40
20	certain points in time in 2008 through 2012	18:01:43
21	Mallinckrodt did not have an adequate	18:01:46
22	suspicious order monitoring system?	18:01:49
23	MR. O'CONNOR: Object to form.	18:01:49
24	THE WITNESS: I -- I don't -- I	18:01:50
25	don't recall the MOA language.	18:01:56

1	QUESTIONS BY MR. KO:	18:01:57
2	Q. I guess what I'm trying to ask	18:01:57
3	you is, I understand that -- well, let's take	18:01:59
4	a step back.	18:02:03
5	I believe you testified earlier	18:02:04
6	today that at least prior to 2008 there were	18:02:05
7	at least ten instances, somewhere between one	18:02:09
8	and ten instances, in which suspicious orders	18:02:14
9	were reported to the DEA.	18:02:17
10	Was that correct?	18:02:18
11	MR. O'CONNOR: Object to form.	18:02:19
12	THE WITNESS: Yes.	18:02:19
13	QUESTIONS BY MR. KO:	18:02:21
14	Q. So at least there were	18:02:22
15	somewhere north of one but south of ten	18:02:23
16	suspicious orders reported to the DEA?	18:02:25
17	A. Yes.	18:02:26
18	Q. So that's more than the "none"	18:02:27
19	you just indicated to me; is that not	18:02:30
20	accurate?	18:02:32
21	A. You asked if we had shipped a	18:02:32
22	suspicious order.	18:02:34
23	Q. I see.	18:02:35
24	A. But the orders that we had	18:02:36
25	reported between one and ten to DEA were not	18:02:38

1	subsequently shipped.	18:02:41
2	Q. Got it. Understood.	18:02:41
3	So from -- is it your testimony	18:02:43
4	today that from 2008 to present, Mallinckrodt	18:02:48
5	has not shipped a single suspicious order?	18:02:50
6	A. Yes. When we talk about	18:02:54
7	suspicious orders, direct orders to our	18:02:56
8	customers.	18:03:00
9	Q. Okay. Let's take -- you can	18:03:00
10	set that aside.	18:03:15
11	I hand you a copy of what will	18:03:19
12	be marked as Harper Exhibit 33.	18:03:20
13	MR. KO: And for the record,	18:03:23
14	this is Bates -- ends in Bates 485740.	18:03:24
15	(Mallinckrodt-Harper Exhibit 33	18:03:28
16	marked for identification.)	18:03:29
17	QUESTIONS BY MR. KO:	18:03:29
18	Q. Do you recognize that e-mail,	18:03:41
19	Ms. Harper?	18:03:44
20	A. No, I don't, so I'm going to	18:03:45
21	read it, please --	18:03:52
22	Q. Sure.	18:03:52
23	A. -- because -- yeah. Okay.	18:03:53
24	Q. In terms of the September 9,	18:04:40
25	2010 e-mail that you drafted to James Parker,	18:04:47